

§ 1.561-1

26 CFR Ch. I (4-1-03 Edition)

<i>Deductions (Section 161)</i>	
Expenses allocable to operation of the rented property	\$75,000
Depreciation of the rented property	30,000
Ordinary and necessary expenses (office)	10,000
Contributions (within the 5-percent limitation specified in section 170(b) (2)	5,000
	<u>120,000</u>
Taxable income for purposes of computing undistributed foreign personal holding company income	180,000
(c) The undistributed foreign personal holding company income of the corporation is \$160,875, computed as follows:	
Taxable income for purposes of computing undistributed foreign personal holding company income	<u>\$180,000</u>
Add (see section 556(b)):	
Contributions deductible in computing taxable income under section 63	5,000
Excess property expenses and depreciation over amount of rent received for use of property (\$105,000 - \$5,000)	<u>100,000</u>
Total	<u>105,000</u>
Deduct (see section 556(b)):	
Federal income taxes	59,125
Contributions (within the percentage limitations specified in section 170(b)(1) (A) and (B), determined under the rules provided in section 556(b)(2))	<u>15,000</u>
Total	<u>74,125</u>
Net additions under section 556(b)	<u>30,875</u>
Taxable income, as adjusted under section 556(b)	210,875
Less: Deduction for dividends paid (see section 561)	<u>50,000</u>
Undistributed foreign personal holding company income	160,875

DEDUCTION FOR DIVIDENDS PAID

§ 1.561-1 Deduction for dividends paid.

(a) The deduction for dividends paid is applicable in determining accumulated taxable income under section 535, undistributed personal holding company income under section 545, undistributed foreign personal holding company income under section 556, investment company taxable income under section 852, and real estate investment trust taxable income under section 857. The deduction for dividends paid includes:

(1) The dividends paid during the taxable year;

(2) The consent dividends for the taxable year, determined as provided in section 565; and

(3) In the case of a personal holding company, the dividend carryover computed as provided in section 564.

(b) For dividends for which the dividends paid deduction is allowable, see section 562 and § 1.562-1. As to when dividends are considered paid, see § 1.561-2.

[T.D. 6500, 25 FR 11737, Nov. 26, 1960, as amended by T.D. 6598, 27 FR 4093, Apr. 28, 1962]

§ 1.561-2 When dividends are considered paid.

(a) *In general.* (1) A dividend will be considered as paid when it is received by the shareholder. A deduction for dividends paid during the taxable year will not be permitted unless the shareholder receives the dividend during the taxable year for which the deduction is claimed. See section 563 for special rule with respect to dividends paid after the close of the taxable year.

(2) If a dividend is paid by check and the check bearing a date within the taxable year is deposited in the mails, in a cover properly stamped and addressed to the shareholder at his last known address, at such time that in the ordinary handling of the mails the check would be received by the shareholder within the taxable year, a presumption arises that the dividend was paid to the shareholder in such year.

(3) The payment of a dividend during the taxable year to the authorized agent of the shareholder will be deemed payment of the dividend to the shareholder during such year.

(4) If a corporation, instead of paying the dividend directly to the shareholder, credits the account of the shareholder on the books of the corporation with the amount of the dividend, the deduction for a dividend paid will not be permitted unless it be shown to the satisfaction of the Commissioner that such crediting constituted payment of the dividend to the shareholder within the taxable year.

(5) A deduction will not be permitted for the amount of a dividend credited during the taxable year upon an obligation of the shareholder to the corporation unless it is shown to the satisfaction of the Commissioner that such crediting constituted payment of the

dividend to the shareholder within the taxable year.

(6) If the dividend is payable in obligations of the corporation, they should be entered or registered in the taxable year on the books of the corporation, in the name of the shareholder (or his nominee or transferee), and, in the case of obligations payable to bearer, should be received in the taxable year by the shareholder (or his nominee or transferee) to constitute payment of the dividend within the taxable year.

(7) In the case of a dividend from which the tax has been deducted and withheld as required by chapter 3 (section 1441 and following), of the Code the dividend is considered as paid when such deducting and withholding occur.

(b) *Methods of accounting.* The determination of whether a dividend has been paid to the shareholder by the corporation during its taxable year is in no way dependent upon the method of accounting regularly employed by the corporation in keeping its books or upon the method of accounting upon the basis of which the taxable income of the corporation is computed.

(c) *Records.* Every corporation claiming a deduction for dividends paid shall keep such permanent records as are necessary (1) to establish that the dividends with respect to which such deduction is claimed were actually paid during the taxable year and (2) to supply the information required to be filed with the income tax return of the corporation. Such corporation shall file with its return (i) a copy of the dividend resolution; and (ii) a concise statement of the pertinent facts relating to the payment of the dividend, clearly specifying (a) the medium of payment and (b) if not paid in money, the fair market value and adjusted basis (or face value, if paid in its own obligations) on the date of distribution of the property distributed and the manner in which such fair market value and adjusted basis were determined. Canceled dividend checks and receipts obtained from shareholders acknowledging payment of dividends paid otherwise than by check need not be filed with the return but shall be kept by the corporation as a part of its records.

§ 1.562-1 Dividends for which the dividends paid deduction is allowable.

(a) *General rule.* Except as otherwise provided in section 562 (b) and (d), the term *dividend*, for purposes of determining dividends eligible for the dividends paid deduction, refers only to a dividend described in section 316 (relating to definition of dividends for purposes of corporate distributions). No distribution, however, which is preferential within the meaning of section 562(c) and § 1.562-2 shall be eligible for the dividends paid deduction. Moreover, when computing the dividends paid deduction with respect to a U.S. person (as defined in section 957(d)), no distribution which is excluded from the gross income of a foreign corporation under section 959(b) with respect to such person or from gross income of such person under section 959(a) shall be eligible for such deduction. Further, for purposes of the dividends paid deduction, the term *dividend* does not include a distribution in liquidation unless the distribution is treated as a dividend under section 316(b)(2) and paragraph (b)(2) of § 1.316-1, or under section 333(e)(1) and paragraph (c) of § 1.333-4 or paragraph (c)(2), (d)(1)(ii), or (d)(2) of § 1.333-5, or qualifies under section 562(b) and paragraph (b) of this section. If a dividend is paid in property (other than money) the amount of the dividends paid deduction with respect to such property shall be the adjusted basis of the property in the hands of the distributing corporation at the time of the distribution. See paragraph (b)(2) of this section for special rules with respect to liquidating distributions by personal holding companies occurring during a taxable year of the distributing corporation beginning after December 31, 1963. Also see section 563 for special rules with respect to dividends paid after the close of the taxable year.

(b) *Distributions in liquidation—*(1) *General rule—*(i) *In general.* In the case of amounts distributed in liquidation by any corporation during a taxable year of such corporation beginning before January 1, 1964, or by a corporation other than a personal holding company (as defined in section 542) or a foreign personal holding company (as defined in section 552) during a taxable